App. F. IX-4

Previous References

1929. 30 (Law)

File No. 97. 27

Serial Nos. 102.

Later References

Received 17.2.03

General and Revenue Secretariat.

Serial Nos. 200

Part B for July 1931

SUBJECT

Repairs to Dhanajori Anicut-

Letter no 753 dated 6.2.30 from the Secy, Sl. Dept forwarding the officers for opinion regarding the letter ~~from~~ Jagirdar of Sivanasamudram in the matter of repairs to Dhanalere Anicut.

The Jagirdar in his letter of 4.9.29 (Flag A) claims 1) the removal of the sluice on the western side of the Anicut, the opening of which, he says, diminishes the supply for irrigation of his lands.

2) the payment of damages of Rs 3000/-, for closing the Sluices in the March 1929 by the Electrical Dept, thus causing the water to overflow the anicut & damaging the repairs effected in closing certain breaches.

The Electrical department replies that the claim to the removal of the sluice is not maintainable, since the sluices are opened only during the hot weather, for which compensation is paid to the Jagirdar. The second claim is met by the plea that since there was ~~no~~ no intimation by the Jagirdar of the repairs that he was making to the Anicut, the Sivanasamudram Officers could not know that they were causing any damages by closing the sluice.

Dated 20.1.30

In his reply to this letter, does not mention anything about his second claim for damages, but refers only on the removal of the Sluice, or the payment that the hot-weather compensation for the ryots & Pattadars could does not ensure to the benefit of the Jagirdar. If the removal is not possible, the Jagirdar claims that since the mysore govt derives the major portion of the benefit from the Anicut, they ought, on "principles of natural justice" undertake the obligation of keeping the anicut in repairs.

The points on which legal opinion ~~is~~ required ~~are~~ is not stated If it is as to the maintainability of ~~whether~~ the claim of the Jagirdar to the removal of the Sluices or in the alternative to the mysore govt undertake the repairs of the Anicut, the answer has to a large measure to depend on the terms & conditions of the arrangement arrived at between the Jagirdar & the mysore govt under which we are using the Jagirdar's Anicut, ~~It is not clear stated~~ as also the explicit understanding between the parties as to the payment of the hot weather Compensation -

No.

— Since the full facts are not stated
all the relevant papers are not
no opinion can be furnished.
Draft reply, if...

11.2.30

2 The Secy to Govt
Dte: dept —
P 4895 dt 10:
stating that unless full facts
stated as per para 46, no opin
can be given

Letter No 882 dated 27.2.30 from the
Secy, St. Deptt, requesting for a co
of the Rules —
Draft forwarding the same,

8/19 p 329 1

ELECTRICAL SECRETARIAT.

No. E. D. S. 153
Encls.

Dated Bangalore, 6 February 1930

Law 95-2f-1

FROM Rajasevasaktha

K. R. SESHACHAR, ESQ., B.A., B.E., C.E.,
Secretary to the Government of Mysore,
Electrical Department,
Bangalore.

To

The Secretary to Government,

Law Department, Bangalore.

Sir, Subject:- Repairs to Bhanagere Anicut.

I am directed to forward herewith a copy of letter dated the 20th January 1930 received from the Jaghirdar of Sivasamudram, and to request that your opinion thereon may kindly be offered at a very early date to enable further action being taken in the matter.

This office papers on the subject are also sent herewith for reference and return.

I have the honour to be,

S i r,

Your most obedient servant,

K. R. Seshachar

Secretary to Government,
Electrical Department.

Letter dated the 20th January 1930 from the Jaghirdar of Sivasamudram, to the Secretary to Government, Electrical Department, Bangalore.

Re.- Dhangere Anicut - Removal of Sluice - Repairs.

With reference to your letter No.EDS.669 dated 11th January 1930 in reply to my letter to the Dewan of Mysore dated the 4th September 1929 I have to state as follows:-

The Mysore Government have opened a sluice on the western side of the Dhangere Anicut belonging to me and situated in the British territory in spite of my protest and they are utilising the water for their Cauvery Power Works thereby profiting to the extent of several lakhs. I have already stated in my letter dated 4th September 1929 how the act of the Electrical Department in closing the sluice in or about March 1929 has caused damage to the newly ---- repaired portions which have been washed away. In my letter I have also asked for the removal of the sluice in which matter the letter under reply is completely silent. The hot-weather compensation referred to in your letter under reply goes to the ryots and --- Pattadars for depriving them of the use of the water in hot-weather and not for the benefit of the Jaghirdar.

The benefit gained by the Mysore Government by the use of this Anicut for their Cauvery Power Works is enormous compared with the benefit derived from the same either by the Jaghirdar or by the British Government who utilise the water only for irrigation ---- purposes. While so it is but just that a person who derives the major portion of the benefit of a transaction should also share the burden of it and not go Scot-free. The Mysore Government, therefore in all fairness and having regard to the principles of natural --- justice, should undertake the repairs of this Anicut in full whenever it needs repair. In fact the Mysore Government have effected some repairs only two years ago presumably having this aspect of the ---

matter in their mind. If the Mysore Government is not willing to take the entire burden of repairing this Anicut, if they state the approximate money value of the benefit derived from by them from this Anicut I am willing to go in shares along with the British Government and with the Mysore Government. Now that the repairs are to be effected this year, it is but fair that this question of the extent of obligation of the Jaghirdar, the British Government and the Mysore Government in this matter should be settled finally.

I have also addressed a letter stating all this to the British Government requesting them to communicate this aspect of the matter to the Mysore Government and settled the matter finally.

If the Mysore Government is not willing to undertake the repairs it is but proper that they should arrange to remove the sluice altogether and have nothing to do with the Anicut. But if they want the sluice and the consequent advantages they should in all fairness ---- undertake the repairs as afore-said.

As the repairs are to be effected soon, the matter is urgent and an early reply is solicited.

" Copy "

Assistant Secretary to Government,

Electrical Department.

Appendix F G—1

SUBJECT.....

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Section 6

File No. 99-28

Serial No. 2

No. 4895 Genl

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *192*

To

The Secretary to Govt

Electrical Dept

Date of issue 10/3/30

Signed by M N S

Sir,

With reference to your letter no E.D.S. 75 dated 6th Febr 1930, regarding the repairs to Dhanagere Anicut, I have the honour to state that ~~it is opinion~~ it is not clear from the reference on what points legal opinion is required in the matter. If it is ~~regarding~~ regarding the ~~question as regards the~~ validity ~~invalidity~~ or otherwise

List of enclosures.....

Copied by.....

Examined by.....

ove

of the claim of the Jagirdars to the removal of the sluices or in the alternative to the Government undertaking the obligation of repairing the anicut, the question depends to a large measure on the exact ~~and~~ terms and conditions of the agreement with the Jagirdars under which the ~~Dep~~ Mysore Government is using the Anicut. Since nothing is stated about such an agreement, I regret no opinion can be furnished on the papers now sent. In this connection, I ~~am~~ invite your attention to rule 66 of the Rules for the Conduct of Legal affairs of Government, which indicate the procedure to be followed in making reference for legal opinion. The enclosed your letter are herewith returned.

Haveck

Legal

No. E. D. S. 882
Encls.

ELECTRICAL SECRETARIAT,

Dated, Bangalore, 27-3-193 0.

FROM

Rajasevasaktha
K. R. SESHACHAR, ESQ., B.A., B.E., C.E.,
Secretary to the Government of Mysore,
Electrical Department,
Bangalore.

To

The Secretary to Government,

Law Department, B a n g a l o r e.

Subject:- Repairs to Dhanagere Anicut.

Sir,

Adverting to your letter No. P.4895 dated the 10th March 1930 on the above subject, I am directed to request that a copy of the Rules for the conduct of legal affairs of Government referred to therein may kindly be forwarded for taking needful action in the matter.

I have the honour to be,

Sir,

Your most obedient servant,

Secretary to Government,
Electrical Department.

Section

File No.

Serial No.

No. 5372 (1)

To

The Secy Electrical Deptt

Sir,

~~With reference to~~ As requested in

your letter No 582 dated

27th March 1930 ~~regarding~~

~~repairs to Dhanagere~~

~~Aerial~~, I am forwarding herewith 15 dwgs

herewith a copy of the

Rules for the Conduct of

Legal Affairs of post

I have etc

Sd L R Seaswood

Dy